

Exhibit D

From: Matthew L. Schwartz
Sent: Thursday, December 7, 2017 6:04 PM
To: Mermelstein, Rebecca (USANYS)
Cc: Quigley, Brendan (USANYS); Tekeei, Negar (USANYS)
Subject: RE: Govt Production # 16

Rebecca –

1. Yes, thanks, a copy of cover letters/transmission e-mails would be very helpful.
2. If you expect an answer on the remaining issues shortly, then we're fine to wait and get everything at once. Just so it doesn't get lost, let's say if you don't get an answer or reasonably expect one by next week, just go ahead and send us what you have.
3. I understand your position, but I would have thought you or the SEC could provide an answer to my logistical question. This does not involve your litigation strategy, because the answer is knowable by me: I can get the documents from the SEC and compare them to the criminal discovery, it will just entail a lot of extra time and expense. I would ask you to reconsider your position.

-mls

From: Mermelstein, Rebecca (USANYS) [mailto:Rebecca.Mermelstein@usdoj.gov]
Sent: Monday, December 4, 2017 11:30 AM
To: Matthew L. Schwartz
Cc: Quigley, Brendan (USANYS); Tekeei, Negar (USANYS)
Subject: RE: Govt Production # 16

Matt,

To respond in reverse order:

- 1) We don't have a simple tracking spreadsheet that is in a form that can be shared. We could easily resend you all of the cover letters if that would help. Otherwise, I'm happy for you to clean up your spreadsheet so we can take a look or to run through it all on the phone.
- 2) We have gotten answers to some, but not all of the metadata answers and are working on addressing the remaining issues. To be more specific, we have identified an overlay that corrects the delimiter issue but our third party vendor does not have data for accessed date/time, internet message id, or intfilepat. We are working to see if that can be extracted and provided and will keep you posted. If you would like the delimiter overlay in the meantime I'm happy to send it (I thought it would be easier to make one metadata production, but whatever you prefer is fine).
- 3) I strongly disagree that the SEC and USAO have jointly investigated this matter. To the contrary, we have conducted independent parallel investigations in which, to be sure, documents have been shared upon request. We are sending out an additional production today (cover letter attached) which produces additional materials we received from the SEC by request. This may provide you with some understanding of what has been received from the SEC. Beyond that, I do not believe it is appropriate to ask the Government to reveal its litigation strategy by identifying which documents have been requested from the SEC. As I said, the SEC and USAO matters are wholly separate and – having elected to proceed with discovery in both cases simultaneously

– you need to deal with the SEC with respect to discovery in its case and with us with respect to the criminal prosecution.

Best,

Rebecca

From: Matthew L. Schwartz [<mailto:mlschwartz@BSFLLP.com>]

Sent: Saturday, December 2, 2017 2:48 PM

To: Mermelstein, Rebecca (USANYS) <RMermelstein@usa.doj.gov>

Cc: Quigley, Brendan (USANYS) <BQuigley@usa.doj.gov>; Tekeei, Negar (USANYS) <NTekeei@usa.doj.gov>

Subject: RE: Govt Production # 16

Rebecca –

Putting aside the question of whether the government is responsible for reviewing information in the SEC's possession, I am asking a logistical question that the SEC directed me to address to you: Is the material that they listed below material that you have already produced to us in criminal discovery? If the answer is yes, I don't want to receive it again and have to incur significant expense mounting, reviewing, and de-duping it; if the answer is no, I will make sure I get it from the SEC.

The SEC doesn't want to tell me what they've given the USAO, and you don't want to make representations about the SEC, but the result shouldn't be that Mr. Archer has to pay an extraordinary amount of money to re-review material that may have already been produced when the SEC and USAO have unquestionably investigated jointly and are sharing information and evidence with one another. Indeed, you will recall that one reason that we had a disagreement about the scope of the confidentiality order in this case (before Judge Abrams' ruling on our motion regarding the SW) was that you said you could not be restricted from sharing information with the SEC.

Can't you and Nancy talk to one another and one of you give me the factual answer to the question of whether the stuff she listed is the same as stuff you've already produced, or whether it's different? This would be a silly thing to have to go to Judge Abrams and/or Judge Pauley with.

Also, please let me know if (a) you've found out anything about the missing metadata, and (b) you have a simply tracking spreadsheet of your prior productions so we can compare to what we've received. Thanks.

-mls

Matthew L. Schwartz
BOIES SCHILLER FLEXNER LLP
212-303-3646 (Direct)
646-337-5787 (Mobile)

From: Mermelstein, Rebecca (USANYS) [<mailto:Rebecca.Mermelstein@usdoj.gov>]

Sent: Wednesday, November 29, 2017 3:37 PM

To: Matthew L. Schwartz

Cc: Quigley, Brendan (USANYS); Tekeei, Negar (USANYS)

Subject: RE: Govt Production # 16

No problem.

With respect to your other question, we have produced the Rule 16 material in our possession to date, including any materials received from the SEC, and will continue to produce any additional materials we receive in a timely fashion. We are not in a position to make representations concerning materials being made available to you by the SEC in civil discovery.

Best,

Rebecca

From: Matthew L. Schwartz [<mailto:mlschwartz@BSFLLP.com>]
Sent: Wednesday, November 29, 2017 2:44 PM
To: Mermelstein, Rebecca (USANYS) <RMermelstein@usa.doj.gov>
Cc: Quigley, Brendan (USANYS) <BQuigley@usa.doj.gov>; Tekeei, Negar (USANYS) <NTekeei@usa.doj.gov>
Subject: RE: Govt Production # 16

Thank you. And when you get a chance, please also let me know about those items the SEC referred us to you on, so that we can get back to them.

-mls

From: Mermelstein, Rebecca (USANYS) [<mailto:Rebecca.Mermelstein@usdoj.gov>]
Sent: Wednesday, November 29, 2017 2:01 PM
To: Matthew L. Schwartz
Cc: Quigley, Brendan (USANYS); Tekeei, Negar (USANYS)
Subject: RE: Govt Production # 16

I'll look into it and get back to you shortly.

From: Matthew L. Schwartz [<mailto:mlschwartz@BSFLLP.com>]
Sent: Wednesday, November 29, 2017 1:33 PM
To: Mermelstein, Rebecca (USANYS) <RMermelstein@usa.doj.gov>
Cc: Quigley, Brendan (USANYS) <BQuigley@usa.doj.gov>; Tekeei, Negar (USANYS) <NTekeei@usa.doj.gov>
Subject: RE: Govt Production # 16

We have now heard back from our vendor. The file you provided solved some, but not all, of the problems.

Most importantly, while a number of fields were filled in by the file you provided, several were not including

- Date Accessed – Date
- Date Accessed – Time
- Email – Internet Message ID
- Int File Path

The first two of these in particular are potentially highly important, and we know this metadata to be included in the files because, again, it was in the exact same documents when we produced them to the government.

Also, the metadata was corrupted with respect to certain documents. Specifically, I understand that there were 10 corrupted line items in the overlay provided to us that had incomplete bates numbers and corrupt delimiters:

Error lines in original overlay file	Production::Begin Bates
331	SearchWarrant_v2_00018930

2442	SearchWarrant_v2_00020976
2443	SearchWarrant_v2_00020977
2444	SearchWarrant_v2_00020978
3904	SearchWarrant_v2_00021778
5145	SearchWarrant_v2_00023131
8032	SearchWarrant_v2_00025007
8033	SearchWarrant_v2_00025008
8086	SearchWarrant_v2_00025009
8087	SearchWarrant_v2_00025010

Could you please provide the missing data? Thanks.

-mls

Matthew L. Schwartz
BOIES SCHILLER FLEXNER LLP
212-303-3646 (Direct)
646-337-5787 (Mobile)

From: Matthew L. Schwartz
Sent: Tuesday, November 28, 2017 11:50 AM
To: 'Mermelstein, Rebecca (USANYS)'
Cc: Quigley, Brendan (USANYS); Tekeei, Negar (USANYS)
Subject: RE: Govt Production # 16

Thanks, this was received. We are sending it to the vendor now and will let you know if there are any remaining questions.

Regarding past productions, we have a tracking sheet but it contains all sorts of work product. If you have a simple list that you wouldn't mind sharing it would save my client the expense of us reformatting our spreadsheet. If you don't have such a list, we'll send you what we have -- although I assume you would need to have a good tracking system to be able to confirm that we have it all.

-mls

From: Mermelstein, Rebecca (USANYS) [<mailto:Rebecca.Mermelstein@usdoj.gov>]
Sent: Monday, November 27, 2017 3:42 PM
To: Matthew L. Schwartz
Cc: Quigley, Brendan (USANYS); Tekeei, Negar (USANYS)
Subject: [Not Virus Scanned] [Not Virus Scanned] FW: Govt Production # 16

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Matt,

Per your request, I am resending the October 20th metadata overlay. Please confirm it has come through. If you want to send us a list of what you have received to date in discovery we're happy to double check to make sure you have received everything that has gone out.

Best,

Rebecca

Dear Counsel,

Attached to this e-mail, you will find Production 16 and a corresponding cover letter pertaining to US v. Jason Galanis et al.

Please let me know if you have any issues accessing the data.

Best,

Christine Lee
Paralegal Specialist
U.S. Attorney's Office SDNY
One Saint Andrews Plaza,
New York, NY 10007
Tel: 212-637-2272
Email: Christine.Lee@usdoj.gov

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